

Message

From: Carey, Curtis [Carey.Curtis@epa.gov]
Sent: 10/27/2020 4:10:25 PM
To: Chu, Ed [Chu.Ed@epa.gov]
Subject: FW: Daily News Clips: Morning Edition, 10/27/20

See the first story below

From: Kibilov, Nicholas <Kibilov.Nicholas@epa.gov>
Sent: Tuesday, October 27, 2020 11:07 AM
To: AO OPA OMR CLIPS <AO_OPA_OMR_CLIPS@epa.gov>
Subject: Daily News Clips: Morning Edition, 10/27/20

Daily News Clips: October 27, 2020 (morning edition)

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EPA Cancels LGBTQ Pride And Resilience Event Due To Trump Crackdown

https://www.huffpost.com/entry/epa-lgbt-event-canceled-trump-diversity-training_n_5f981bacc5b6e1e70764515d

By Emily Peck and Alexander C. Kaufman
27 Oct 2020

After Trump banned diversity trainings in sweeping guidelines, employees compared the atmosphere at the agency to the Red Scare.

The Environmental Protection Agency canceled a virtual event on LGBTQ pride and resilience that was to be given by an 84-year-old psychologist and longtime gay rights activist, because of President Donald Trump's executive order banning diversity training, HuffPost has learned.

The event, "What LGBT Pride and Resilience Can Teach Us About Navigating Covid and Beyond," was scheduled for Oct. 7.

Days before that, in a memo, the White House ordered federal agencies to stop holding diversity trainings, which it called "divisive, anti-American propaganda." In a subsequent order, Trump extended the ban to all companies that contract with, or receive funding from, the federal government.

Though the orders appear to mostly concern trainings that focus on race and sex, the bans have had a far more broad effect, as the EPA action shows.

People are afraid of getting in trouble because it's like [a] McCarthyism communist Red Scare.
—EPA employee

"What's so insidious and tyrannical about the executive orders and memos and guidances is they just cast such a broad net that anything falling into diversity and inclusion is now under threat," one EPA employee, who spoke on the condition of anonymity out of fear of retaliation, told HuffPost. "People are afraid of getting in trouble because it's like [a] McCarthyism communist Red Scare."

"We aren't familiar with" the canceled event, EPA spokesman James Hewitt told HuffPost. "EPA is committed to ensuring that all employees fully understand the laws and policies regarding civil rights, affirmative action, and equal access/equal opportunity. All EPA employees are expected to be familiar with and have a full understanding of the federal laws relating to civil rights."

Political appointees at the agency have largely avoided communicating restrictions on diversity events in writing, instead announcing cancellations and concerns during virtual office-hour sessions, according to another EPA employee who also spoke on the condition of anonymity. The prohibitions are unevenly applied across the agency's offices, the employee said, with a near-blanket ban on diversity-related programs in place at the agency's Washington, D.C., headquarters.

In recent weeks, the agency canceled several internal events examining how pollution disproportionately affects the poor and communities of color, Politico first reported. EPA Administrator Andrew Wheeler, meanwhile, had recently promised to focus on the issue during a second Trump term.

The EPA also halted efforts to address complaints of racist messages scrawled on a shared wall calendar in the Office of Public Affairs two years ago, the second EPA employee told HuffPost. After hiring California-based consultancy Crossroads to advise managers on how better to respond to racist incidents in the future, political leadership at the agency intervened in September to cancel three upcoming consultation sessions.

"We were surprised that they were required to cancel these consultations considering they were part of a contract that focused on conflict resolution," Debra Russell, Crossroads' national program director, said by phone.

The Trump administration's executive order on diversity training fundamentally misunderstands how such training works, according to the many experts who have spoken with HuffPost on the subject. But even by the definitions of its own order, it's hard to see how the resilience talk planned at the EPA violated the guidelines.

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Under the executive order, training that suggests that “men and members of certain races, as well as our most venerable institutions, are inherently sexist and racist” and encourages “conformity” is prohibited. (The [executive order](#) says this is to avoid perpetuating “racial stereotypes.”)

“[The order has] had a massive chilling effect because nobody knows what they can or can’t do,” the second EPA employee said. “There’s a lot of frustration and resentment, and a lot of people very upset by the particularly outrageous language the president used about what’s ‘unAmerican.’”

The main speaker for the canceled LGBTQ event was Harold Kooden, a longtime gay rights activist who lived through the AIDS epidemic in New York City. He shared a draft of his speech with HuffPost. It is an eight-page heartfelt meditation on his life and experiences as a psychologist treating men with HIV during the height of that public health crisis.

He connects those moments to the present day. “Rather than looking outside ourselves, it is in moments like that we need to look inwards for our guidance and strength to find resilience,” he planned on saying.

“We are now in the fight for our democracy.

–Harold Kooden, gay rights activist who was set to speak at the canceled event

The event was organized by TransClue, a trans-owned training and consulting company, founded by Sterling Cruz-Herr.

Kooden’s remarks were to be followed by a panel discussion with another diversity consultant on coming out and how the process did or did not make participants stronger.

“Describe which one of these strengths is most serving you now as you navigate this time of tremendous uncertainty,” is one prompt that was planned for the session, according to a draft viewed by HuffPost.

There was also time built-in for Q&A.

Kooden said about 300 people had signed up for the event and that they were in the late stages of planning when he heard it would be postponed indefinitely.

He was horrified, and said the administration had effectively censored him and so many others.

“It is both an overt and covert insidiousness that is pervasive. It is being done in front of us and in so many other ways of which we are totally unaware,” he wrote in an email to his friends and colleagues that was shared with HuffPost. “We are now in the fight for our democracy.”

Are you a government employee who has seen a training canceled or experienced other fallout from the White House executive order? Email emily.peck@huffpost.com

Do you have information you want to share with HuffPost? [Here’s how.](#)

Ethanol Stakeholders Comment on FFV Standards

<http://energy.agwired.com/2020/10/27/ethanol-stakeholders-comment-on-ffv-standards/>

CINDY ZIMMERMAN OCTOBER 27, 2020 [LEAVE A COMMENT](#)

Ethanol stakeholder organizations submitted comments to the Environmental Protection Agency this week regarding the E85 Flexible Fuel Vehicle Weighting Factor (F-factor) for Model Year 2021 and Later Vehicles.

Comments from the Renewable Fuels Association (RFA) support EPA's new approach to maintaining some level of certainty for automakers, but would like to see the agency "provide a long-term floor and "more robust" E85 usage factors for future model years, given expected growth and the many benefits provided by ethanol flex fuels."

"Based on our discussion with automakers, it is clear that manufacturers will hesitate to invest in certain technologies, like FFVs, unless there is some assurance that those vehicles technologies will help enable CAFE and GHG standard compliance over multiple model years," wrote Kelly Davis, RFA Vice President for Regulatory Affairs. "Fuel blenders and retailers also need multi-year certainty regarding the likely mix of light-duty vehicles so that they may appropriately direct their investments in wholesale and retail fuel infrastructure."

The American Coalition for Ethanol (ACE) supports an F-factor of at least 0.20 for model year 2021 and later vehicles, and encourages EPA to consider "forward-looking data which indicate E85 use will significantly rise in the future. Until such time EPA establishes a 0.20 or greater F-factor, ACE strongly encourages the Agency to maintain the 0.14 F-factor, so the value does not default to zero."

The National Corn Growers Association (NCGA) and 14 state corn grower groups also urged EPA to provide more certainty and use forward-looking data analysis to update policy that will lead to greater flex-fuel vehicle (FFV) production and increased demand for higher blends of ethanol.

"As the producers of the primary feedstock for ethanol, corn farmers support a forward-looking, consistent, long-term F-factor that provides automakers with greater certainty in compliance crediting for planning vehicle production," the associations wrote.

ACE, automotive, corn, E85, EPA, Ethanol, Ethanol News, NCGA, RFA

How has oil fared under Trump?

<https://www.politico.com/newsletters/morning-energy/2020/10/27/how-has-oil-fared-under-trump-791208>

By KELSEY TAMBORRINO

10/27/2020 10:00 AM EDT

DRIVING THE DAY

TRUMP'S CRUDE AWAKENING: President Donald Trump spent the past several days drawing attention to Joe Biden's comment that he would transition away from oil. But several industry players told POLITICO that the Trump administration overall hasn't delivered the concrete benefits they had hoped for, Pro's Ben Lefebvre reports.

President Donald Trump speaks to city officials and employees of Double Eagle Energy on the site of an active oil rig on July 29, 2020 in Midland, Texas. | Photo by Montinique Monroe/Getty Images

So far, at least 40 U.S. oil companies have sought bankruptcy protection in 2020, while dozens of others have slashed spending and cut tens of thousands of jobs as the pandemic worsened the downturn that was taking hold of the industry last year. Trump disappointed executives last month by reversing early term pledges and making vast swaths of shoreline off Florida and other states off-limits to drilling, and the administration's aggressive

regulatory rollbacks have been so rushed and beset by legal challenges that Democrats may have little trouble reinstating the rules if they reclaim power.

"Three and a half years of rollbacks facing serious litigation ensures a lot of things are 'to-be-decided,'" said Wayne D'Angelo, an energy lawyer and partner at legal firm Kelley Drye, who has represented oil and gas companies and trade associations on federal environmental issues.

More fundamentally, oil and executives told POLITICO, the president doesn't really understand their business — and his famously chaotic White House has set up a system where only a relative handful of favorite energy executives have access to people who can shape policy.

"I don't think it's one of these things where we as an industry get in a room and say, 'Man that was a good four years,'" said one industry executive who requested anonymity. "It was more like 'meh.'"

ON THE HILL

BARRETT ON THE BENCH: The Senate on Monday night confirmed Barrett to the Supreme Court by a 52-48 vote, elevating the 48-year-old judge and daughter of a retired Shell executive and significantly shifting the highest court in the land to the right. Barrett raised eyebrows during her confirmation hearings this month when she dodged Democrats' questions on climate change science, saying at first she had not studied the science but that it was irrelevant to her judgeship, then later describing the issue as "a very contentious matter on public debate" that she would not address further. None of that impeded her from being confirmed and quickly sworn in on Monday.

The judiciary has consistently recognized the science behind climate change and the threat it poses. True, there does appear to be at least some behind-closed-doors disagreement, such as when an announcement over a climate science seminar last year triggered a scathing email battle between judges in D.C. But the vast majority of climate change-related rulings over the past decade-plus have recognized the phenomenon's danger to public health and welfare — even when the judges may be ruling against agency action. For example, then-Judge Brett Kavanaugh in 2016 said addressing climate change was a "laudable" policy even as he appeared skeptical of the Obama administration's legal authority to do so.

On her docket: Barrett will participate in several upcoming Supreme Court actions in the environmental sphere. This coming Monday, the court is slated to hear arguments in a wonky case over whether certain Fish and Wildlife Service documents from an endangered species review of a draft Obama-era EPA rule must be released under the Freedom of Information Act. Later in the term, the court will take up a question about whether state-law climate lawsuits can be removed to federal courts, where they're likely to be blocked. And the high court is waiting to hear the Justice Department's thoughts on two additional cases before deciding whether to hear them; one is a fight between Wyoming, Montana and Washington state over coal exports, and the other will decide the future of the PennEast gas pipeline in New Jersey.

PLEASE SHOW YOUR WORK: The top House Democrats who oversee EPA's water pollution work are demanding that the Trump administration provide specifics about the real world impact of last month's rollback of an Obama-era regulation limiting toxic water discharges from coal plants. In a letter to EPA Administrator Andrew Wheeler Monday, Transportation Chair Peter DeFazio (Ore.) and water subpanel Chair Grace Napolitano (Calif.) asked that EPA identify the individual power plants that benefited from the rollback and those that it expects to participate in a voluntary program that the administration used to argue its rollback would result in greater pollution reductions than the original Obama-era rule.

ELECTION SPOTLIGHT

A daily look at what POLITICO Energy reporters are watching this cycle. Today, Pro's Anthony Adragna and Annie Snider look at a wave of doctors and scientists running competitive races this year.

CALLING ALL DOCS AND SCIENTISTS: Trump's criticism of his own medical experts during a worldwide pandemic and his unwillingness to full-throatedly accept the dire threat posed by climate change are giving ammunition to a host of scientists seeking to flip seats for Democrats this cycle.

The wave of activism within professions that typically avoid politics began after Trump's election with the March for Science in 2017 and led to groups like 314 Action that had some success boosting scientists to office in 2018.

This go-around, Democrats in three competitive House contests are touting their medical and scientific credentials. In an open contest in sprawling Central Virginia, Dr. Cameron Webb is locked in a competitive race against local political official Bob Good. In an Arizona district northeast of Phoenix, physician Hiral Tipirneni is battling Rep. [David Schweikert](#), who's struggling [amid a slew of ethics violations](#). And on Long Island, Ph.D. chemist and Union of Concerned Scientists' National Advisory Board member Nancy Goroff is seeking to knock off Rep. [Lee Zeldin](#), [saying that climate change](#) "is a major motivation for me and getting into this race." The Arizona and Virginia contests are considered tossups, while the one in New York "Leans Republican," according to the Cook Political Report.

In Senate races, Democrats are hoping two doctors can lead them to upsets in Kansas and Alaska. Dr. Barbara Bollier, who left the Republican Party in 2018, is in a surprisingly competitive contest for an open seat against Rep. [Roger Marshall](#) in Kansas; In Alaska, Dr. Al Gross battles incumbent Sen. [Dan Sullivan](#). Both races are dubbed "Leans Republican." And former NASA astronaut Mark Kelly has stressed the importance of listening to science in his battle against Sen. [Martha McSally](#) in Arizona.

DATAPOINT

Earlier this week, ME highlighted an Alaska ballot measure that would hike the oil production tax in the state. [The measure is drawing millions from Big Oil](#), but it's certainly not the only provision related to energy and the environment awaiting voters at the ballot box next month. Pro DataPoint's Patterson Clark has the run-down of [state ballot measures for energy, environment, transportation and water](#).

State ballot measures for energy, environment, transportation and water. | Patterson Clark/POLITICO

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IN THE STATES

FRACK TALK: As he crisscrossed Pennsylvania on Monday, Trump had one thing on his mind: Fracking. He portrayed it as an issue of "existential importance" for the state home to the Marcellus Shale, [POLITICO's Meredith McGraw reports](#). "Biden confirmed his plan to abolish the entire U.S. oil industry," Trump said Monday, speaking to supporters in Allentown, Pa., incorrectly describing Biden's stance, which is actually focused on ending federal subsidies for fossil fuel companies, barring new fossil fuel permits on public lands and transitioning to renewable energy sources.

[Trump also tweeted Monday afternoon](#) that Biden's comment at last week's debate that he would transition away from oil was "perhaps the most shocking admission ever uttered in the history of presidential debates." In doing so, Trump said Biden "confirmed his plan to ABOLISH the entire U.S. Oil Industry — that means NO fracking, NO jobs, and NO energy for Pennsylvania Families!"

But Trump's full-throated fracking evangelism is not necessarily a message that appeals to the state at large, Meredith reports. A slim majority of Pennsylvania's registered voters opposed fracking in an August CBS poll, and some of the energy firms that rushed to the state in recent years have seen their stocks plummet as the industry struggles.

AROUND THE AGENCIES

DEPARTMENT OF INTERESTING TIMING: Fresh off Trump's visit to the Keystone State, Energy Secretary Dan Brouillette will travel today to Washington County, near Pittsburgh, to tour an active Range Resources natural gas well site, the Energy Department announced. The secretary will then hold a roundtable on Wednesday at DOE's National Energy Technology Laboratory in the Pittsburgh area and make a "substantial energy funding announcement." Brouillette tweeted a reminder Monday that NETL research includes how to make fracking more efficient.

Fracking has "produced energy security and national security for the nation," Brouillette said on Fox News Radio on Monday. "It's given us foreign policy options that we didn't have just a decade ago. So it's a very, very important technology, and I would dare say that it is the technology that has produced the economic boom over the last three years." Brouillette also pointed to the coal industry, which he said was "nearly" killed by the previous administration. "When they say that they want to kill oil and gas, a word to the wise: Believe them," he said.

WHEELER CALLS ON DOJ TO INVESTIGATE GREENS: Wheeler on Monday asked the Justice Department to investigate several environmental groups, including the Sierra Club and the Sunrise Movement, over concerns they were receiving secret funding from foreign governments, Pro's Alex Guillén reports. In a letter, Wheeler said he referred the matter to DOJ because of "heightened concern that foreign countries, primarily China and Russia, are potentially funding U.S.-based 'green' groups to undermine American energy independence and to help maintain the integrity of EPA's decision-making."

The administrator was responding to a letter sent earlier this month by Rep. Lance Gooden (R-Texas) that alleged foreign influence at the Sierra Club, Sunrise Movement and the Sea Change Foundation. Gooden's letter cited "information recently brought to my attention" that the groups are "clearly engaging in politics at best, and operating at the behest of foreign actors at worst." Republicans have long alleged that foreign interests fund environmental groups' regulatory agendas in a covert effort to weaken the U.S. energy sector. Green groups have defended their work as proper and called the allegations an effort to distract attention from the market forces hurting the fossil fuel industry.

WIND IN THE OFFING: FERC is holding an all-day technical conference on off-shore wind today. The panels include civil servants and executives from the Bureau of Ocean Energy Management and the National Renewable Energy Laboratory and executives from PJM Interconnection, ISO-New England and Avangrid.

THE GRID

- "Trump federal salary adviser quits post over executive order reclassifying workers," via POLITICO.
- "U.S. sanctions Iran oil minister as Trump ramps up pressure," via Bloomberg.
- "Revealed: the full extent of Trump's 'meat cleaver' assault on U.S. wilderness," via The Guardian.
- "Exclusive: GM, Ford knew about climate change 50 years ago," via E&E News.
- "Biden pledges ambitious climate action. Here's what he could actually do," via The New York Times.
- "Tax hikes may help Russian oil majors stomach OPEC output curbs," via Reuters.

THAT'S ALL FOR ME!

U.S. EPA considering E15 labeling changes at gas pumps: sources

<https://globalrubbermarkets.com/249780/u-s-epa-considering-e15-labeling-changes-at-gas-pumps-sources.html>

October 27, 2020

By Stephanie Kelly

NEW YORK (Reuters) – The U.S. Environmental Protection Agency is considering changes to labels for gasoline containing higher blends of ethanol, or E15, in an effort to appease the biofuel industry’s concerns that current labels discourage use of the fuel, according to four sources familiar with the matter.

Expanding the market for E15 has long been a policy goal for farmers and producers of ethanol, a corn-based product, but concerns that some older vehicles don’t run well on the product have been a headwind. Current federal E15 labels warn of possible engine damage.

The Trump administration, meanwhile, has been trying to shore up support in the Farm Belt ahead of the election through favorable announcements for biofuel advocates.

An announcement for a proposal on the labeling changes could come soon, two of the sources said. None of the sources could say exactly how the administration might alter the labeling.

EPA and the White House did not immediately comment.

President Donald Trump in mid-September said in a tweet he would allow states to permit fuel retailers to use their current pumps to sell E15.

Under U.S. law, refiners must blend billions of gallons of biofuels into their fuel pool, or buy credits from those that do. Refiners that prove the requirements harm them financially can get waivers from the obligations.

So-called small refinery exemptions, or SREs, have been a lightning rod of controversy between the Corn and Oil lobbies. Biofuel advocates say the exemptions hurt demand for their product, while the oil industry refutes that and says the waivers helps small refiners stay afloat.

The Trump administration in September sided with farmers in the ongoing debate when it rejected scores of requests from refiners for waivers that would have retroactively spared them from their obligation.

EPA awards CloroxPro coronavirus kill claim

<https://www.mcknights.com/news/products/epa-awards-cloroxpro-coronavirus-kill-claim/>

By Kimberly Marselas

October 27, 2020

The Environmental Protection Agency has awarded a new kill claim to CloroxPro, acknowledging that the disinfectants can eliminate SARS-CoV-2, the virus that causes COVID-19. The following CloroxPro products are now officially EPA-registered to kill SARS-CoV-2 with a contact time of one minute or less:

Clorox Healthcare Fuzion Cleaner & Disinfectant (1 minute contact time)

Clorox Healthcare Bleach Germicidal Wipes (30 second contact time)

Clorox Commercial Solutions Clorox Disinfecting Wipes (30 second contact time)

CloroxPro Clorox Germicidal Bleach (30 second contact time)

CloroxPro PineSol Multi-Surface Cleaner (30 second contact time)

Clorox said it is the only company with multiple products approved at a contact time of one minute or less using SARS-CoV-2 testing data. Previously, all of these products were included on the [EPA's List N](#), which represents products that meet the EPA's criteria for use against SARS-CoV-2 per the emerging viral pathogen policy, or they have a claim against the human coronavirus. Numerous CloroxPro products have met this criteria and can continue to be used against SARS-CoV-2.

Kalaguard® SB Sodium Benzoate Registered Under EPA FIFRA

<https://www.prnewswire.com/news-releases/kalaguard-sb-sodium-benzoate-registered-under-epa-fifra-301160749.html>

NEWS PROVIDED BY

[Emerald Kalama Chemical](#)

Oct 27, 2020, 10:10 ET

The new registration expands the availability of sodium benzoate as a green, consumer friendly preservative option for home care and industrial products

VANCOUVER, Wash., Oct. 27, 2020 /PRNewswire/ -- Emerald Kalama Chemical has completed registration for Kalaguard® SB sodium benzoate as a new active ingredient under U.S. EPA FIFRA (Fungicide Federal Insecticide, Fungicide and Rodenticide Act), making it available for use in North America for in-container control of bacteria, yeasts and molds in industrial and household products.

Kalaguard® SB is an effective, broad spectrum preservative for home care products up to pH 7. The EPA registration also covers a range of industrial applications, such as floor and leather care, coatings, adhesives, silicones, surfactants, inks and other non-ionic emulsions systems. Kalaguard SB is recommended for use in formulations at neutral and acidic pH and may be used at ambient and elevated process temperatures.

Kalaguard® SB is non-sensitizing and non-irritating to the skin, nature identical and readily biodegradable. It is listed on the EPA Safer Choice Chemical Ingredients List as "verified to be of low concern". Kalaguard® SB is classified as a low-risk substance by the European Union, preferred over classical biocides to encourage the use of products with a more favorable environmental or human or animal health profile.

Emerald completed BPR (Biocidal Products Registration) in Europe last year, and Kalaguard® SB has already been successfully implemented in a broad range of commercial products, including household cleaners, wipes, detergents, hand dishwash liquids and laundry care products. Now that registration is complete under both BPR PT 6 and EPA FIFRA, Kalaguard® SB use can continue to expand in key regions.

"The range of available preservatives has decreased significantly due to regulatory pressure, evolving consumer preferences and supply disruptions. At the same time, there is growing demand for eco-friendly, skin-friendly products that are still adequately protected from microbial contamination. This is especially true during a pandemic, when it's critical to make sure products remain stable and effective throughout their life, while also minimizing adverse reaction potential due to increased use of cleaning products," said Rosanna Stokes, business development manager for Emerald's Consumer Specialties business in the Americas.

Stokes continued, "This registration is a culmination of a complex, data-intensive, multi-year effort. It's a very important milestone that will enable a new generation of home care products with robust preservation and a favorable environmental and human toxicology profile."

SOURCE Emerald Kalama Chemical

Lysol competitor wins EPA approval to fight COVID-19

https://www.postguam.com/business/lysol-competitor-wins-epa-approval-to-fight-covid-19/article_999f5eb0-182b-11eb-8f30-cb0c02eff1fa.html

By Gerald Porter Jr. | Bloomberg

27 Oct 2020

Microban 24 wasn't expected to be a major product before Procter & Gamble introduced it in February. Then came COVID-19.

The sanitizing spray – P&G's answer to Lysol and Clorox – is in demand with the coronavirus pandemic causing a rush for household cleaning supplies. On Monday, Microban got perhaps its biggest vote of confidence yet, as the packaged-goods giant said the spray was approved by the U.S. Environmental Protection Agency as effective in killing the virus that causes COVID-19.

Kevin Wenzel, vice president of P&G's North American Surface Care Design & Delivery unit, said in an interview that the product is "particularly important as we see sanitization habits changing through the pandemic."

While it doesn't have the name recognition of its rivals, Microban is one of a small number of players in a hot-selling and closely watched category of consumer products. Disinfectants have been one of the toughest items to find throughout the pandemic, even as toilet paper, soap and other supplies went out of stock and back in.

Microban is already on pace to become a \$200 million-a-year seller, the company said. P&G, best known for household staples including Tide laundry detergent and Charmin toilet paper, cited soaring demand for home-care products last week as it posted its best quarter for organic sales growth in 15 years.

The sanitizing spray's timely debut came with its own set of challenges. After a three-year development process, it was introduced just as the coronavirus outbreak was spreading across the globe. That created immediate urgency for P&G to "significantly expand" its manufacturing capacity to try to reduce out-of-stocks at retailers, Wenzel said.

Another priority was figuring out how to stand out in a category with such established competitors. With the EPA approval, Microban joins a select number of sprays, including products from Clorox and Reckitt Benckiser's Lysol brand, to be designated as effective against the virus that causes COVID-19. And Microban offers other features, Wenzel said, such as the ability to kill bacteria from multiple touches to a surface.

"We see this as meeting an unmet consumer need," he said.

Pre-to-3: Will EPA plug the leak on school, child care lead exposure risks?

<https://www.educationdive.com/news/rule-could-reduce-lead-exposure-in-schools/587501/>

AUTHOR

[Kara Arundel](#)

27 Oct 2020

It's been decades since lead was first identified as a toxin harmful to the neurological development of young children. However, there are no federal laws that require schools, child care facilities or early education programs to test their drinking water for lead or copper.

That may soon change.

A proposed update to the Environmental Protection Agency's Lead and Copper Rule, now in the final stages of review, would require community water systems to test for lead in drinking water at 20% of K-12 schools and licensed child cares in their service area every year.

Results from the sample and explanations and suggestions regarding the results would be provided to each child-centered facility tested in addition to local or state health departments, according to the proposed rule. Facilities built after January 1, 2014 would be excluded from the testing requirement.

If given final approval, it would be the first substantive change to the EPA's Lead and Copper Rule since 1991, and it has the potential to reduce the number of children exposed and potentially harmed by drinking contaminated water.

"We don't want anyone exposed to lead, but this is a very important population," said Lindsay McCormick, program manager of chemicals and health at the Environmental Defense Fund.

Developmental delay risks

Of all the environmental hazards young children could be exposed to, ingesting lead in drinking water or paint is one of the most concerning for pediatricians, parents and early childhood educators.

Lead exposure can be harmful to people of any age, but young children who ingest lead are at risk of developmental delays and disabilities including longer-term impacts that can adversely affect learning, speech development and attention and behavior. In fact, the Centers for Disease Control and Prevention says no safe lead levels in young children's blood have been identified.

Regions across the country that have higher risks to lead exposure because of the prevalence of older buildings with old water pipes, fixtures and lead-based paint may have specific pediatric testing recommendations for lead exposure in young children. The American Academy of Pediatrics recommends doctors perform risk assessments for lead exposure in all young children several times before a child's sixth birthday. Lead in water is difficult to see, smell and taste, according to the CDC.

Early childhood education specialists also are addressing the developmental challenges faced by infants and toddlers exposed to lead. Several states allow for automatic eligibility for Part C early intervention services under the Individuals with Disabilities Education Act if a certain level of lead is detected in a child's blood stream, according to a 2017 survey of state Part C coordinators conducted by the Infant and Toddler Coordinators Association, a member organization of Part C state coordinators.

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Children ages birth through 2 years old, whose developmental delays or disabilities persist as they grow older and who may need special education services, could potentially qualify for IDEA's Part B program, which serves preschool and school-aged children.

In the survey provided by ITCA's Executive Director Maureen Greer, state Part C coordinators said even if lead levels in a child's bloodstream aren't a factor for automatic eligibility, a documented risk of lead exposure or evidence of developmental delays could trigger consideration for early intervention services and supports, such as speech therapy.

“I think there is enough research about the long-term impacts on cognitive skills and abilities,” Greer said. “It’s an area where states look at for a population that needs to be served.”

Greer added, “It’s a really important issue. We all saw what happened in Michigan.”

In August, a landmark settlement was reached between plaintiffs in a class action lawsuit against the Michigan Department of Education and Flint, Michigan’s Genesee Intermediate School District and Flint Community Schools as a result of high levels of lead found in the community water system in 2014.

The settlement requires the state and local education systems to provide funding and expanded services for special education programs, according to the American Civil Liberties Union of Michigan, whose attorneys represented students in the complaint.

Proactive efforts

Several states are regularly testing drinking sources in facilities with children, and there are programs to support the voluntary testing of water in schools. For example, EPA officials told researchers with the Government Accountability Office that, as of May, at least 11 states and the District of Columbia require water testing in child care facilities.

Another GAO report from 2017 said the EPA reported at least eight states required school districts to test for lead in drinking water. An additional 13 states offered funding or other incentives for the voluntary testing of drinking water in schools, the report said.

Ideally, efforts to reduce young children’s exposure to lead would be a multi-agency, multi-stakeholder effort, according to a federal action plan from the 2018 President’s Task Force on Environmental Health Risks and Safety Risks to Children.

Partnerships between state agencies and local school, health and utility organizations in Indiana have helped the state test drinking water supplies in more than half of its schools beginning in 2017, as well as remove or replace fixtures and take other remediation approaches, said Jim McGoff, chief operating officer and director of environmental programs with the Indiana Finance Authority.

The current program, launched in 2019, is focused on younger-aged school children and child care facilities; however, all public schools are eligible as funding remains available. The state is using the EPA’s Water Infrastructure Improvements for the Nation (WIIN) Act Grant for this second program, which will only fund the testing of the drinking water and not repairs or remediation efforts.

“We believe these programs can be a model for other states that are considering a testing a program because it’s proactive in the absence of policy, leverages available federal and state funding resources specific to water-quality improvements, and provides assistance to schools via resources and guidance to help them participate in testing and implement remediation when applicable,” said McGoff in an email.

Governments and school districts also have taken steps to remove toxins in drinking water in schools and child care facilities. For example, New York City and 11 states require licensed child care businesses to regularly test their drinking water for lead, according to the Environmental Defense Fund.

Anything related to the safety and health of our students is of utmost importance to us.

Lynette Washington
Chief operations officer, Baltimore City Public Schools

The Thompson School District in Loveland, Colorado, partnered with the city of Loveland Water Quality Laboratory and Colorado State University's Department of Civil and Environmental Engineering to sample water sources from 2,645 fixtures across 34 locations in the district from March 2018 to April 2019. It received support from the EPA's 3T's —Training, Testing and Taking Action program, which encourages voluntary efforts to minimize lead in drinking water at schools and child care centers.

The samples allowed the district to create a baseline for continued monitoring of fixtures to detect the absence or presence and concentration of lead in drinking water supplies.

“The testing was critical to help identify which fixture components needed to be replaced or retrofitted with filtration units to maintain healthy drinking water supplies for our primary and secondary locations,” said Jess Arnold, the district’s environmental specialist, in an email. Arnold also said the partnerships were critical for the management of the project, and that because of the large amount of data collected, having a detailed sampling plan was essential.

On the East Coast, Baltimore City Public Schools in Maryland shut down all the drinking fountains in more than 100 older schools and facilities more than 10 years ago when testing indicated high levels of lead. Drinking water is now being provided through water dispensers, which cost the district \$834,000 this year, said Lynette Washington, the district’s chief operations officer.

The long-term plan is to update the old water fixtures and plumbing when buildings are scheduled for renovations, Washington said, adding drinking water sources in newer schools undergo regular testing as required by the state.

“Anything related to the safety and health of our students is of utmost importance to us,” Washington said.

Still, the effort of maintaining safe drinking water sources, including the testing of water filtration systems in newer buildings is costly, Washington said. The district has budgeted \$15,000 for the water filtration tests this year, according to Washington.

Cost, testing limitation concerns

According to the EPA, as reported by the GAO's 2020 report, the cost of testing a typical child care facility could be a few hundred or a few thousand dollars, depending on how many buildings and fixtures need to be assessed. Repairs or replacements of lead fixtures, pipes and service lines can also get expensive depending on the scope of the work.

The report also raised concerns that the prolonged school shutdowns due to the COVID-19 pandemic could cause more lead to leach into water pipes feeding into those buildings.

The EPA has a toolkit to help schools, child care facilities and early childhood education programs identify potential funding sources for the water quality measures. Some suggested funding sources include grants, loans and the issuance of bonds. Additionally, the agency announced earlier this year that it is providing \$26 million in grants for states, territories and tribes to test for lead in schools and child care facilities in low-income and disadvantaged communities.

The median amount spent by school districts to test for lead in school drinking water is dependent on the number of schools in which tests were conducted, the 2017 GAO report said. For example, its research found that a rural district where three schools were housed in one building spent \$180 testing all eight fixtures, whereas a large urban district spent \$2.1 million to test 11,000 fixtures in 500 schools.

The GAO report also said most schools and districts are responsible for the cost of remediation, but some states provide financial assistance for that work.

Although lead testing and remediation can get costly, the payoff is significant when the potential reduction in damage to children's developing brains and bodies is considered, said EDF's McCormick.

The proposed Lead and Copper Rule received nearly 80,000 public comments, according to Regulations.gov. Several organizations and agencies have voiced support for the changes, but some say the rule doesn't go far enough to remove all the dangers of contaminated drinking water — particularly for young children.

For example, the proposed rule requires that water samples are drawn from only five drinking outlets in each school and two in each child care center, McCormick said. That could mean contaminated water sources could go undetected even if the community utility has met the requirement for school and child care-based testing under the rule.

"There's a risk of a false sense of security," she said. "That's what I worry about."

Additionally, there's no requirement that the problematic faucets and service lines be upgraded, McCormick said. "Until we get all the lead out, it will be a challenge," she said.

P&G's sanitizing spray to combat coronavirus wins EPA approval

<https://www.foxbusiness.com/healthcare/pgs-sanitizing-spray-coronavirus-epa-approval>

By Madeline FarberFOXBusiness

27 Oct 2020

In a time when the nation is racing to disinfect their homes, a new sanitizing product has won approval from the U.S. Environmental Protection Agency (EPA) for its ability to kill the novel coronavirus in 60 seconds. Procter and Gamble's (P&G) Microban 24 Sanitizing Spray has won approval from the EPA, the consumer goods giant announced on Monday.

Procter and Gamble's Microban 24 Sanitizing Spray. (Business Wire/AP)

Mircoban was first released in February before the coronavirus crisis was officially declared a pandemic by the World Health Organization in March. It was created as a response to other popular disinfecting products produced by P&G competitors, such as Lysol and Clorox, per Bloomberg.

Ticker	Security	Last	Change	Change %
<u>PG</u>	PROCTER & GAMBLE COMPANY	142.87	+1.56	+1.10%
<u>RBGLY</u>	RECKITT BENCKISER GROUP PLC	18.28	-0.04	-0.22%

CLX

CLOROX

215.01

+2.10

+0.99%

But as “Americans shifted from their standard sanitizing routine to one focused on protecting their homes against the COVID-19 virus,” said Martin Hettich, SVP North America Home Care, P&G, in a statement, “Procter & Gamble has been diligently working with scientists and health experts to ensure that Microban 24 Sanitizing Spray provides the effectiveness against the COVID-19 virus that people need.”

HOW COVID-SAFE IS DINING IN A RESTAURANT'S OUTDOOR TENT?

For a product to claim it can kill a specific pathogen, or SARS-CoV-2 in this instance, the EPA “must conduct a data review and provide approval,” the company said in a news release, noting that Mircoban “has been tested by a third-party lab, in accordance with the EPA testing guidelines, and was shown to kill SARS-CoV-2 in 60 seconds.”

Additionally, the product is also approved to kill nearly all — 99.9%, to be exact — of bacteria and viruses, per P&G.

Bloomberg reported that Mircoban is already on track to reach \$200 million in sales per year.

The product joins the EPA’s list N and is now one of a select number of spray products that have been approved by the agency to kill the novel virus.

A spokesperson for P&G wasn’t immediately available for additional comment when contacted by FOX Business.

Climate Policymaking in the Shadow of the Supreme Court

<https://www.resourcesmag.org/common-resources/climate-policymaking-shadow-supreme-court/>

10.27.20 / COMMON RESOURCES

Ann Carlson, Amelia Keyes, Benjamin Harris, and Dallas Burtraw

The confirmation of Amy Coney Barrett to fill the seat left by the late Justice Ruth Bader Ginsburg has catapulted the Supreme Court back onto the front pages of newspapers around the country. Though press attention has focused on abortion, same sex marriage, healthcare policy, and the outcome of the presidential election, the shift in the court’s composition could also have profound implications for environmental regulation. Even without the addition of Justice Barrett, five members of the court already have expressed serious skepticism about expansive executive power, at least when exercised to regulate environmental pollution. With a sixth member likely to embrace a similar viewpoint, the odds are even greater that the court could dramatically limit executive agency power.

If the presidency changes hands in November, the federal government is likely to turn its attention toward reducing domestic emissions of greenhouse gases that cause climate change. New climate change policies could come from Congress, especially if Democrats gain a majority of seats in the US Senate, and new regulations could be implemented using existing executive power under statutes like the Clean Air Act. Either approach faces potential legal pitfalls, though it is hard to predict exactly what those pitfalls might entail. The US Supreme Court could use two legal doctrines—the nondelegation and major questions doctrines, either together or separately—to overturn climate legislation or regulations issued to cut carbon pollution. The exact parameters of those doctrines are unclear, because the court has used them only infrequently; the nondelegation doctrine has not been used to strike down a statute or regulation in 85 years. Nevertheless, several justices have discussed the doctrines recently, suggesting they may impose greater oversight over the regulatory authority of administrative agencies and limit Congress’s ability to delegate authority to those agencies in the first place.

Supreme Court Specters

In July of this year, Resources for the Future (RFF) and the UCLA School of Law's Emmett Institute on Climate Change & the Environment convened a group of leading legal and policy experts to discuss the constitutional concerns that could pose challenges to federal climate policy. The group discussed the court's development of the nondelegation and major questions doctrines, both of which the court could use to place limits on regulatory agency authority. The court may resurrect the long-dormant nondelegation doctrine to limit Congress's ability to delegate its legislative powers to another branch of government. Using this doctrine, the court could limit the degree of policy discretion that Congress can grant to an agency, such as the US Environmental Protection Agency (EPA), to carry out Congress's stated goals.

The court also could use the major questions doctrine—a more recently developed tool of statutory construction deployed to scrutinize an agency's authority to regulate—either in tandem with the nondelegation doctrine or on its own. The major questions doctrine assumes that Congress would not grant an agency authority to regulate on an issue that is not explicitly mentioned in the governing statute, particularly when that area involves important and socially significant policy issues with large economic implications. The major questions doctrine was used, for example, to prohibit the Food and Drug Administration from regulating tobacco in FDA v. Brown & Williamson. Neither of these doctrines is particularly well-developed or articulated; nevertheless, they loom as potential obstacles to ambitious climate regulation.

The basic concern that animates proponents of a resuscitated nondelegation doctrine is that regulatory agencies that implement federal laws should not, in doing so, “legislate.” Five members of the current Supreme Court—Chief Justice Roberts, along with Justices Alito, Gorsuch, Kavanaugh, and Thomas—have indicated that they may be willing to revive the nondelegation doctrine, though exactly how they would do so is unclear. The general idea, though, is that the more discretion a statute vests in an executive agency, particularly over decisions that sound like policy judgments, the more vulnerable the statute may be to legal attack. Congress can mitigate this concern by reducing the amount of decisionmaking it leaves to the agency implementing the law (e.g., EPA or another agency).

Several justices also have embraced using the major questions doctrine to limit EPA's ability to regulate greenhouse gas emissions under the Clean Air Act, which does not explicitly mention greenhouse gases. As explained earlier, the major questions doctrine prohibits an agency from regulating on issues of broad social and economic importance without express congressional direction and delegation. Although the Court in Massachusetts v. EPA rejected an argument that the doctrine prevents EPA from regulating greenhouse gases under the Clean Air Act and found that the legislation covers greenhouse gases as “air pollutants,” the vote was 5-4 with Justices Roberts, Alito, and Thomas dissenting and Justices Kavanaugh and Gorsuch not yet on the court. In a subsequent case, Utility Air Regulatory Group v. EPA, conservative members of the court upheld EPA's greenhouse gas emissions regulations for new sources already regulated under the Clean Air Act but held that the agency could not extend those regulations to sources not already subject to regulation. The justices limited EPA's regulatory reach using the major questions doctrine because Congress has not directly spoken to the issue of greenhouse gas regulation.

It is unclear what the relationship of the nondelegation doctrine and the major questions doctrine would be if employed; similarly, it is unclear how far the justices would go in striking down regulations or legislation under either.

Moreover, drawing the line between implementing a statute and legislating is, of course, a difficult question. Since the court has only hinted at reviving the nondelegation doctrine rather than actually deciding a case on that basis, and has used the major questions doctrine sparingly, it is unclear exactly how that line would be drawn. Some justices might be uncomfortable with current statutory delegations; for example, EPA is responsible for determining which pollutants will be regulated under the Clean Air Act. Is determining which pollutants should be regulated “legislative,” and therefore an unconstitutional delegation of power to EPA, or merely the implementation of legislation?

Other justices might craft the nondelegation doctrine more narrowly, in conjunction with the major questions doctrine, to limit agency power over areas where Congress has failed to clearly delegate; for example, because the Clean Air Act doesn't mention greenhouse gases, some justices have already suggested that any effort by EPA to regulate greenhouse gases might be struck down as an impermissible delegation of legislative power on a major question. This is so despite *Massachusetts v. EPA*'s rejection of a major questions challenge surrounding the same question. At this point, we simply do not have enough guidance from the justices who have indicated their interest in reviving the nondelegation doctrine to know exactly what its contours would be.

What Can Policymakers Do?

Now that the court seems more likely to employ the nondelegation and major questions doctrines, Congress is left to determine how much it should legislate or delegate to an expert agency to regulate, and agencies like EPA will likely face uncertainty about the extent of their authority. Federal courts could invoke either or both doctrines when considering the power of regulatory agencies to implement future climate laws and regulations, so it is important for policymakers to try to anticipate their implications.

At the same time, a fundamental attribute of climate change policy is uncertainty about science, technology, and economics. Delegating a goal to an expert agency for it to develop, implement, and adapt policies may be the most effective way to address this challenge. It is impossible for Congress to specify every policy detail within a law, and this expectation is particularly unrealistic for environmental laws that require scientific expertise, technological judgment, and risk assessment, all of which change over time based on new developments and understanding. Proponents of the nondelegation and major questions doctrines have not clearly identified the appropriate degree of agency discretion for these matters.

Nevertheless, although our workshop experts did not always agree on how to craft legislation that includes delegations to expert agencies in the shadow of a skeptical Supreme Court, we have taken from our discussion several takeaways for climate policymakers and regulators as they consider whether and how to take into account potential nondelegation and major questions challenges:

Delegate authority to agencies in ways that are similar to existing statutory authority that has already been upheld. For example, in *Whitman v. American Trucking*, the court rejected a nondelegation challenge to the process by which EPA sets National Ambient Air Quality Standards under the Clean Air Act. Although the current conservative members of the court were not part of the *Whitman* decision, it was a unanimous decision authored by Justice Antonin Scalia. The National Ambient Air Quality Standards could be an effective model for future legislative programs regulating climate change emissions and impacts, given *Whitman*.

Do not sacrifice ambition on climate change in order to defend against hypothetical judicial outcomes, especially given the ways in which background circumstances can change. To avert the worst consequences of climate change, we will need to see dramatic action to transform our systems of energy and transportation. Several commentators at the RFF–UCLA event stressed that Congress and EPA should not let the specter of a potentially bad judicial outcome keep them from regulating aggressively and effectively. To begin with, there is no reason to believe that nondelegation concerns are likely to be greater if a policy is ambitious rather than modest. Additionally, any federal policy adopted in the next year or two likely would not reach the high court for several years. By 2024 or 2025, many things could change, including the composition of the court. The effects of climate change may be even more apparent to the public and to the justices themselves; therefore, the public and members of the court may better understand the urgent need for ambitious policy solutions. Although Congress and EPA can take steps to reduce the likelihood of a bad judicial outcome, the threat of judicial invalidation several years in the future should not keep Congress or the executive branch from acting boldly to prevent the worst effects of a warming planet. Finally, a policy can be ambitious without running afoul of the nondelegation doctrine—the National Ambient Air Quality Standards process is a good example.

Avoid major questions by reducing ambiguity. At a minimum, if Congress is delegating authority to an administrative agency to regulate greenhouse gases, it should be absolutely clear that its intention is to delegate

that authority. The major questions doctrine suggests that Congress needs to speak on an issue of great economic or social significance; in other words, being explicit could insulate a statute from judicial invalidation. Justice Kavanaugh has suggested that constitutional problems may be more acute when Congress has not clearly articulated that it is delegating authority over a specific policy area, so being clear may be the best strategy that Congress can utilize to circumvent some of these concerns.

To hedge against risk, use multiple strategies to reduce greenhouse gases. If Congress and executive agencies pursue multiple strategies to reduce greenhouse gases, some of those policies are likely to be upheld against legal challenges. One could call this the “don’t put all your eggs in one basket” approach. This is true for agency action as much as it is for congressional action; for example, regulations to control methane leaks from oil and gas operations may be upheld, whereas regulations to control hydrofluorocarbons may not, or vice versa. An ambitious package of policies—including regulations to control greenhouse gases, energy efficiency standards and policies, investments in research and development, tax incentives for renewable energy or carbon capture and storage, and a national renewable portfolio standard—will produce significant greenhouse gas reductions, even if one or more pieces of the package are struck down.

Model policy to look like existing regulatory structures, and avoid having a big policy look too different from prior regulations. Again, to use the National Ambient Air Quality Standards as an example, the court already has upheld a structure that delegates authority to EPA to determine, based on the best available science, which pollutants should be regulated and at what levels. Similarly, expanding and updating current regulatory programs that have already been upheld—such as the Cross-State Air Pollution Rule and the Mercury and Air Toxics Standards—may be a less risky regulatory strategy from a legal perspective. EPA could use authority it hasn’t previously utilized significantly—such as Section 111(d) and Section 115 of the Clean Air Act—to regulate greenhouse gases, but those regulations would be more likely to be upheld if they look like long-utilized tools in EPA’s toolbox. The point here is to model policy after already successful strategies, rather than to design something that strays too far from past experience.

Create severable regulatory components, with a backstop, to isolate legal risks. Given that any new climate policy from Congress will face some risk of judicial invalidation, legislation should make clear that component parts of legislation are severable in order to avoid having an entire legislative approach struck down. In addition, Congress should also consider creating a backstop policy that takes effect in the event of invalidation; for example, legislation could be enacted that triggers a specific outcome such as a carbon price if other parts of the statute are not implemented, or if emissions reduction goals are not achieved. Adding a backstop would protect against losing emissions reductions if part of a piece of legislation were struck down.

Well-designed policy remains important. As the Affordable Clean Energy Rule has demonstrated, a regulatory approach to reduce greenhouse gases that is based on the most minimal and internally inconsistent interpretation of EPA’s authority barely reduces emissions, may even be counterproductive, and may itself not withstand legal challenge. Policymakers should carefully consider the legal implications of the nondelegation and major questions doctrines but should continue to value policies that are flexible and cost-effective, which also reflect the realities of the sectors of the economy that they seek to regulate.

The openness and inclusiveness of policy debate is critical. In both the legislative and regulatory policy pathways, it is important to develop a policy process that is transparent and reflects the input of all stakeholders, including bipartisan support where possible. This approach can not only improve the quality of the resulting policy but also make the policy more resilient to legal challenges.

Finally, it is worth stressing that the federal courts’ use of the nondelegation and major questions doctrines is unpredictable. As a result, policymakers should be cognizant of the risk that legislation or regulations could be struck down and take practical and reasonable steps to avoid that risk. At the same time, they should not let concerns about a nondelegation or major questions challenge get in the way of smart and effective policymaking to tackle climate change.

This article was cross-posted with Legal Planet, a collaboration between faculty at the UC Berkeley School of Law and the UCLA School of Law.

How Amy Coney Barrett's appointment to Supreme Court could impact climate crisis fight for decades

<https://www.independent.co.uk/environment/amy-coney-barrett-climate-crisis-trump-supreme-court-b1371036.html>

Harry Cockburn

19 minutes ago

Last minute Trump pick seals conservative domination of America's highest court, causing shockwaves through environment movement

The US Senate has voted to confirm Donald Trump's pick Amy Coney Barrett for a lifetime appointment on the Supreme Court, causing alarm among scientists and those concerned about the worsening climate crisis.

Ms Barrett, a 48-year-old Catholic, has indicated she does not necessarily accept the international scientific consensus on humanity's impact on the climate.

Earlier this month she said she does not hold "firm views" on climate change, and described it as a "very contentious matter of public debate".

This assessment sparked significant concern over her ability to evaluate evidence.

Just eight days before the US election, her appointment, following the death of Ruth Bader Ginsburg at 87, shifts the long-term make-up of the Supreme Court judges firmly to the right, with major ramifications for the future climate on our planet.

The lifetime appointment system means the makeup of America's highest court is likely to remain unaltered possibly for decades, affecting the ability of a Biden presidency, or any other environmentally sympathetic administration, to pass laws to protect the natural world.

Ms Barrett's appointment comes at a critical time in the fight against global greenhouse emissions and other efforts to protect the natural world and stave off climate breakdown.

If and when climate policy issues reach the supreme court, there are fears she could play a role in striking down environmental protection laws and other climate-based legal challenges.

This is significant because much legislation designed to protect the environment could feasibly come before the Supreme Court.

With climate being an issue which splits along the Republican/Democrat divide, putting meaningful legislation through Congress has long been a tortuous process. This previously resulted in Barack Obama using the various US government agencies to enact climate policies.

But this tactic means the Supreme Court could be the forum in which the president's executive power to decide US strategies to fight the climate crisis are challenged and ultimately decided.

As meteorologist Eric Holthaus put it: "Since Barrett is only 48 years old and the court seat is a lifetime appointment, her thoughts could almost single-handedly shape the next three decades of US climate policy

during a time when radical change ‘in all aspects of society’ is required in order to preserve a stable climate system, according to the IPCC.”

Ms Barrett’s record is of considerable concern to those concerned about the environment. In particular she has indicated she is willing to overturn 80 years of recognition that Supreme Court rulings which mean Congress does not engage in detailing the precise workings of legal implementation, which is left up to government agencies, such as the Environmental Protection Agency (EPA) to flesh out and implement. This is called the “nondelegation doctrine”.

But according to environmental law organisation Earth Justice, in recent years right wing judges have sought to overturn these precedents on behalf of powerful corporate interests.

The organisation warned last month: “Adding Justices who want to revive the nondelegation doctrine will undermine EPA’s ability to protect communities - especially communities of color - from pollution and climate change.

“The courtroom is the battleground where Earthjustice fights to secure a just and equitable future for people and the planet, and the Supreme Court is the most important courtroom in the land. That’s why we need Justices who will make sure our courts remain a place where science and the law beat corruption and privilege.”

Richard Black, director of the Energy and Climate Intelligence Unit told The Independent he was concerned Ms Barrett’s appointment could lend crucial support to Mr Trump in a close-run election scenario, and also indicated fossil fuel firms could eye the Supreme Court as a route to less arduous environmental regulation.

He said: “The most immediate effect her appointment could have would be if the election ends up on a knife-edge and the Supreme Court takes a role in returning Donald Trump to power, because as we know his intention is to slow the US clean energy transition and oppose international moves to curb climate change.

“What the high-carbon lobby will have their eyes on most however is the so-called ‘Endangerment Finding’ of 2009, which gives the Environmental Protection Agency (EPA) the right to regulate greenhouse gas emissions and which relied upon a 2007 Supreme Court ruling.

“Coal and oil companies tried every trick in the book to strangle the Endangerment Finding at birth and narrowly failed – with a conservative majority on the Supreme Court there’s every prospect they would attempt a repeal, which would if successful enable them to argue that measures to lower greenhouse gas emissions have no basis in law.”

Companies could face difficulties registering cleaners and disinfectants with claims of "long-lasting" effectiveness against COVID-19, says TSG Consulting

<https://www.prnewswire.com/news-releases/companies-could-face-difficulties-registering-cleaners-and-disinfectants-with-claims-of-long-lasting-effectiveness-against-covid-19-says-tsg-consulting-301159991.html>

NEWS PROVIDED BY

TSG Consulting

Oct 27, 2020, 10:00 ET

WASHINGTON, Oct. 27, 2020 /PRNewswire/ -- Firms hoping to bring products to market in the US with claims of "long-lasting" effectiveness against SARS-CoV-2, the novel coronavirus that causes COVID-19, may face unexpected hurdles, despite a recent announcement by the Environmental Protection Agency (EPA), experts have advised.

These "cutting edge" cleaners and disinfectants are designed to keep surfaces free of viruses and bacteria for days, weeks, months or even years after they are applied – unlike traditional products, which only kill the pathogens present when they are applied.

With consumers, businesses and politicians eager to keep homes, offices and public spaces virus-free, companies are clamoring to have their products labelled as a "long-lasting". While EPA's new guidance opens the door for registration of long-lasting antimicrobials, experts at [TSG Consulting](#) say firms may find that this is not as simple as they think.

Erin Tesch, Senior Vice President and Managing Director at the company, said: "This is a really positive move by the EPA and will benefit both commerce and consumers, by giving them access to 'long-lasting' products that offer microbial reduction between disinfections.

"However, manufacturers need to be aware of some of the hurdles they may face in registering new products and updating the claims of existing ones. While firms may feel that the process will be quick, easy and inexpensive, they may find that – without expert guidance – it is none of these things.

"TSG's knowledge of the industry and history of the marketplace makes us ideally placed to help companies navigate the new guidance, and many of the already existing 'long-lasting' products on the market were registered by us.

"We have in-depth understanding of EPA's new protocols, can assist in claims development and coordinate with efficacy testing labs, ensuring scientists are being asked to perform the right tests and get the data that a firm needs for the claims they want to make."

The advice comes as EPA issued draft guidance for firms manufacturing pesticides that provide residual efficacy against bacteria and viruses. It provides a faster registration route to ensure that products which clean and disinfect surfaces to combat viruses like SARS-CoV-2, the coronavirus that causes COVID-19, are brought to market as soon as possible.

EPA will begin expediting the registration process for these products immediately, although the regulator may revise this guidance within 60 days, after the public has had a chance to comment on the changes.

Speaking at the time, EPA Administrator Andrew Wheeler said: "EPA is providing an expedited path for our nation's manufacturers and innovators to get cutting-edge, long-lasting disinfecting products into the marketplace as safely and quickly as possible.

"As we continue to re-open our schools, workplaces, and other public spaces, it is important Americans have as many tools as possible to slow the spread of COVID-19."

TSG's consultants can assist companies with data development and review, drafting product label and claims, and assembling submission packages to comply with EPA's draft guidance, under which applicants must address specific efficacy testing and labelling requirements for two different types of products, in addition to standard disinfectants.

Supplemental residual antimicrobial products work within two hours of a virus or bacteria encountering a surface and can remain effective for weeks to years. Antimicrobial coatings and films have a residual efficacy measured in weeks, while antimicrobial fixed or solid surfaces, with residual efficacy measured in years. Both can supplement, but do not replace, routine cleaning and disinfection using EPA-approved products for use against COVID-19.

Residual disinfectants must clear a higher standard of efficacy. They are effective within 10 minutes of a virus or bacteria contacting a surface and remain effective for up to 24 hours. Surfaces treated with residual disinfectants do not require additional cleaning or disinfection during this period.

TSG Consulting is a leading regulatory and scientific consulting organization with offices in North America, the UK, and three EU member states, with a 30-year history serving the chemicals, biocides and crop protection sectors.

About TSG Consulting

TSG provides companies with high-quality regulatory and scientific consulting services. We help clients worldwide address the technical and regulatory issues in taking their products to market in multiple jurisdictions. Our scientific expertise, regulatory knowledge and understanding of local nuances enable our clients to navigate the complex and ever-changing regulatory landscape across the globe.

We serve a number of key markets and industry sectors including agricultural, industrial, consumer, food and beverage, animal health, and medical. Our teams comprise scientists and regulatory experts – many of whom have previously held positions at regulatory agencies, departments and in industry. This combination of science, regulatory expertise and knowledge of how institutions and industry operate provides our clients with superior and well-rounded guidance.

TSG Consulting is a Science Group company.

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Science Group plc (AIM: SAG) is a science-led advisory and product development organization. The Group has three divisions:

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Regulatory & Compliance: helping clients in highly regulated markets to launch, market and defend products internationally, navigating the frequently complex and fragmented regulatory ecosystems.

Frontier Smart Technologies: designing and manufacturing chips and modules for the DAB/DAB+ radio markets with 80% market share (excluding the automotive market).

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The US is undermining a Supreme Court ruling on Native rights

<https://www.aljazeera.com/opinions/2020/10/27/us-is-already-defying-supreme-court-ruling-on-native-rights/>

By Ruth H Hopkins

27 Oct 2020

Native American tribes in the United States rejoiced when the US Supreme Court issued its landmark decision in *McGirt vs Oklahoma* in July. The judgement, which reversed a lower court ruling, is best summarised by the last two sentences on the first page of the opinion of the Court: “Today we are asked whether the land these

treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word.”

In McGirt vs Oklahoma, the Supreme Court determined that territory in Oklahoma reserved for the Muscogee (Creek) Nation remains tribal land for the purposes of the Major Crimes Act.

To Native Americans, the McGirt judgment was an acknowledgement. It was a declaration that said: Honour the treaties. Not only did the ruling provide the tribes with an affirmation that treaties – binding nation-to-nation agreements forged between the US and tribes – are still the supreme law of the land as defined by the US constitution, it also upheld tribal sovereignty, or the tribes’ inherent authority to self-govern, and verified the legitimacy of tribal landholdings. For these reasons, tribes retain jurisdiction over their own members on their own lands. Jurisdiction also means the tribes possess the power of taxation and regulation within their territory.

Yet our joy was tempered by history. The McGirt opinion, authored by Justice Neil Gorsuch, a US President Donald Trump appointee to the Supreme Court, is hardly emblematic of Trump’s rapport with Native American communities. The Trump administration consistently takes an adversarial stance towards Native Americans and tribes. And the federal government’s track record in regards to its tribes is fraught with broken promises, so we all suspected it would not be long before they attempted to diminish the precedent set forth in McGirt vs Oklahoma ruling.

Sure enough, just three months later, the Environmental Protection Agency (EPA) sent an official letter to the State of Oklahoma giving it jurisdiction on environmental matters in tribal lands. The Trump administration used Public Law 109–59 to justify it. The transportation bill allows Oklahoma to assume environmental control over tribal land upon the request to the administrator of the EPA. The pro-fossil fuel Republican governor of Oklahoma, Kevin Stitt, had done exactly that only 13 days after the McGirt ruling. By granting his request, the EPA has turned back the clock in Oklahoma as far as the environment was concerned, and, in the process, behaved as if McGirt vs Oklahoma had never come to pass.

In the approval letter, the EPA granted all of Oklahoma’s requests and even added extra ones. They gave Oklahoma control over the implementation and regulation of The Resource Conservation and Recovery Act (RCRA), Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA) Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and Toxic Substances Control Act (TSCA) on tribal lands within state boundaries.

Thanks to the Trump administration, Oklahoma now has permission to dump hazardous waste, including formaldehyde, mercury, lead, asbestos, toxic air pollutants and toxic pesticides, oversee underground injection control for fracking, and shelter corporate livestock farms that release enormous amounts of urine and faeces that contaminate land and water on tribal lands.

The EPA has essentially given Oklahoma carte blanche to poison the homelands of Indigenous Nations within its borders and turn them into uninhabitable dumping grounds and toxic wastelands unsuitable to live upon.

Andrew Wheeler, Trump’s EPA administrator, admitted in his letter to Governor Stitt that “the impetus for the State’s request” was the McGirt decision. By granting Oklahoma environmental regulatory control over tribal lands, Wheeler is undercutting the ruling by aiding Oklahoma in reestablishing the geographic scope it had prior to McGirt.

There are 39 Tribal Nations in Oklahoma and nearly half a million people in the state who identify as Native American and are affiliated with at least one federally recognised tribe. The purposeful subversion of McGirt vs Oklahoma by the Trump administration is a blatant attempt to undermine tribal sovereignty. It will cause irreparable harm to the Oklahoma tribes. Besides diminishing their quality of life and stealing potential tax

revenue and resources such as fresh water, it poses a serious threat to their health and safety that is downright genocidal.

Casey Camp-Horinek, an environmental activist and member of the Ponca Tribe of Oklahoma, said the following about Wheeler's letter in a recent statement:

"After over 500 years of oppression, lies, genocide, ecocide, and broken treaties, we should have expected the EPA ruling in favor of racist Governor Stitt of Oklahoma, yet it still stings. Under the Trump administration, destroying all environmental protection has been ramped up to give the fossil fuel industry life support as it takes its last dying breath. Who suffers the results? Everyone and everything! Who benefits? Trump and his cronies, climate-change deniers like Governor Stitt, Senators Inhofe and Langford, who are financially supported by big oil and gas. I am convinced that we must fight back against this underhanded ruling. In the courts, on the front lines and in the international courts, LIFE itself is at stake."

They are not done yet, either. William Barr, head of the Justice Department, visited Oklahoma to discuss the ways in which legislation could be used to effectively quash the jurisdictional ramifications of McGirt altogether. He snubbed the Muscogee Nation, the tribe directly impacted by the McGirt ruling, while there.

While appalling, this is not the first time a US presidential administration has refused to abide by a Supreme Court decision. Andrew Jackson, a former president (from 1829 to 1837) who Trump greatly admires, defied treaty law and a Supreme Court ruling in Worcester vs Georgia. His disregard for the law led to the Trail of Tears, where thousands of Cherokee died of starvation, disease and exposure while being forcibly relocated to Oklahoma.

Colonial governments have proven time and again that they are incapable of maintaining ecosystems. Their greedy, reckless, myopic, fatalistic, violent non-approach to managing land, air and water has driven the planet into a climate emergency that has put the very survival of humanity in peril. Even Western scientists are acknowledging that the sustainability practices of Indigenous peoples are superior and benefit everyone. They now encourage adopting Indigenous conservation methods or returning land to them outright.

Whether Oklahoma tribes will sue the Trump administration over this or attempt to persuade Congress to repeal the law that the EPA used to grant Oklahoma environmental regulatory control over tribal lands remains to be seen. No matter what, these actions set a dangerous new precedent that should alarm all Native Nations. Destroying our ancestral lands is an act of war. Our children cannot survive in a toxic waste dump, drinking poisoned water and breathing noxious air.

The views expressed in this article are the author's own and do not necessarily reflect Al Jazeera's editorial stance.

Off EPA's priorities list, Fairfax Street pollution cleanup celebrated as 'poster child'

<https://www.jacksonville.com/story/news/environment/2020/10/27/cleanup-done-fairfax-street-wood-treaters-leaves-epa-priorities-list/6035543002/>

Steve Patterson

Florida Times-Union

27 Oct 2020

The head of the U.S. Environmental Protection Agency joined Jacksonville officials Monday to celebrate completion of a pollution cleanup that let the former Fairfax Street Wood Treaters site be removed from EPA's National Priorities List.

“This is a poster child of what I want to see happen” at Superfund sites around the country, EPA Administrator Andrew Wheeler told people gathered under a tent on the 12-acre site at 2610 Fairfax St.

“...Children were playing in these yards and we needed to get this cleaned up as quick as possible,” Wheeler said.

It was 2012 when the property was added to EPA’s priorities list – a roll of badly polluted sites where the government hand les cleanup because no one else has found the money to handle things quickly.

The wood-treating company that had operated since 1980 had gone bankrupt and closed in 2010, leaving tanks of chemicals in poor condition and stormwater flowing off the property.

Tests showed the area was tainted by substances in chromated copper arsenate, a compound used to pressure-treat lumber to resist rotting.

While some properties stay on the priorities list for decades, work at Fairfax Street unfolded relatively quickly.

Crews excavated and replaced polluted soil near neighboring Susie E. Tolbert Elementary and R.V. Daniels Elementary, then d later in the yards around 51 homes of the community about six blocks west of Myrtle Avenue and south of the Martin Luther King Jr. Parkway.

About 60,000 tons of tainted soil were trucked away and replaced with new soil, and an estimated 300,000 gallons of water were processed to decontaminate the area.

“The EPA came in like a knight on a white horse,” James Parris, founder of the Temple College Preparatory school across the street, told people at a gathering to mark the cleanup’s completion. “It took a minute. It took a while. But I’m glad I was part of the 10-year process.”

The property was actually removed from the priorities list in August, but it wasn’t a change that had caught people’s attention.

With the land cleaned, it can be used for pretty much anything, Wheeler said, although it’s not clear what the site story’s next chapter will involve.

The property belongs to the city now, having been lost for unpaid taxes by a former owner.

City Council member Garrett Dennis said he and council member Ju’Coby Pittman, who both have personal roots in the neighborhood and were at the gathering, will be holding a noticed meeting soon to begin a conversation about a new purpose for the site.

Clean Water Act rollbacks hurt rivers and drinking water | COMMENTARY

<https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-1028-chesapeake-bay-20201027-ohnnakvjrmzashed5uqgn34nm54-story.html>

By BETSY NICHOLAS

FOR THE BALTIMORE SUN |

OCT 27, 2020 AT 8:16 AM

I have always loved spending time on rivers. I tend to visit the Potomac and Shenandoah rivers because they're closest to where I live, but I've had great adventures throughout the Chesapeake Bay. One of my favorite memories is a white water rafting trip on the Potomac River with my water advocacy colleagues before the pandemic. We enjoyed the cool water on a hot summer day, and we were reminded of the importance of advocacy and protections for waterways that we love.

My colleagues at Potomac Riverkeeper Network like to say that if you live in the Washington, D.C., area, the Potomac River makes up 80% of your body. This is because the vast majority of our local drinking water comes from the Potomac River. But, regardless of where you live, clean water is essential to all of us.

We can thank the Clean Water Act for protecting our rivers and our drinking water nationwide. The Clean Water Act (CWA) was enacted in the 1970s to prevent pollution in rivers. Although the CWA is federal law, an important piece of it gives states and some tribes authority to ensure that infrastructure projects, such as dams or pipelines, won't pollute our water or otherwise negatively affect water quality.

The Environmental Protection Agency (EPA) recently rolled back the CWA's Section 401, which will significantly restrict states' and tribes' authority to protect water. There are many problematic consequences of the new rules. For one, states and tribes now have a much more limited ability to deny permits for projects that could damage rivers. This has wide-ranging implications for our economy.

EPA is failing the Chesapeake Bay and America's clean water promise »

When we think about Chesapeake Bay, an abundance of seafood comes to mind — blue crabs, oysters, mussels and so much more. According to the Chesapeake Bay Foundation, in 2012 Chesapeake Bay fisheries contributed over \$2 billion and 41,000 local jobs to the Maryland and Virginia economies. Prior to the EPA's recent changes to Section 401 of the CWA, states could leverage their local authority to improve or prevent projects that would negatively impact Chesapeake Bay habitat or water quality. However, under the new Section 401 rules, states are forced to make fast decisions with limited information. This could lead to less informed decision making and impacts to clean water going unaddressed. Our state must be able to protect our waterways so that our fishing industries, and our economy, can thrive.

Moreover, the recent changes to Section 401 of the CWA will also have long-term consequences for our state's ability to mitigate climate change impacts to our rivers. Under the new rules, states and tribes are no longer able to consider climate change as a factor in assessing infrastructure projects. Maryland is the fourth most vulnerable state to climate change impacts such as sea level rise. Our state needs more, not less authority to consider how to mitigate climate change's impacts to our waterways.

Coronavirus is helping the Chesapeake Bay by curbing pollution, but what happens after the pandemic | COMMENTARY »

Climate change is already part of Maryland's reality. In recent years Maryland experienced two storms that were previously considered "thousand year" events. These storms brought heavy rainfall to the Susquehanna River, which increased the amount of sediment flowing downstream to the Conowingo Dam, and ultimately the Chesapeake Bay. Increased sediment reduces oxygen in our rivers, which threatens local fish populations. This is just one example of the many reasons why climate change should be a factor when states are assessing a river project — and why EPA's new limitations on what criteria states can consider are shortsighted.

These rollbacks are largely going unnoticed by the general public despite the troubling implications for our rivers. Given that all Maryland residents rely on rivers for our economy and our health, I urge you to contact your members of Congress. Tell our leaders that you support states' and tribal rights to protect clean water for all Marylanders.

Maryland's economy, our drinking water, and our rivers are all inextricably linked. State and tribal authority over our waterways is essential to ensuring clean water for all Maryland residents. Let's make sure the Chesapeake Bay and its many rivers remain protected — today, and into the future.

Betsy Nicholas (betsy@waterkeeperschesapeake.org) is the executive director of Waterkeepers Chesapeake. She lives in Washington, D.C., in the center of the Chesapeake Bay watershed.

First Home Receives WaterSense® Label Under New Pilot Program Using RESNET HERSH2O®

https://www.einnews.com/pr_news/529086281/first-home-receives-watersense-label-under-new-pilot-program-using-resnet-hersh2o

NEWS PROVIDED BY

RESNET

October 27, 2020, 14:00 GMT

U.S. EPA, RESNET, KB Home, and Energy Inspectors lead kick-off of a Watersense pilot program using HERS H2O in Las Vegas

EPA is pleased to work with long-time certification partner, RESNET, and two WaterSense Partner of the Year award recipients, KB Home, and Energy Inspectors.”

— Jonah Schein, the National Program Manager for WaterSense

OCEANSIDE, CALIFORNIA, USA, October 27, 2020 /[EINPresswire.com](https://www.einpresswire.com/)/ -- Desert communities understand the need to conserve water. The City of Henderson, Nevada has long been a leader in water conservation and will become the site of the very first home labeled under the U.S. Environmental Protection Agency (EPA) WaterSense Version 2.0 pilot, using the new RESNET HERSH2O whole-house water efficiency rating system. The new home, located in the Inspirada master plan, was built by KB Home and rated and inspected by Las Vegas-based Energy Inspectors Corporation.

An agreement to develop efficiency standards and a collaboration between the U.S. Environmental Protection Agency (EPA) and the Residential Energy Services Network (RESNET) led to the kick-off of a pilot program, using HERSH2O to obtain the WaterSense label in the Las Vegas market.

“We are pleased to continue to work with both the EPA and RESNET in bringing this valuable program to market and congratulate KB Home for their leadership in building the first WaterSense 2.0, water-efficiency rated homes in the State of Nevada,” said Galo LeBron, CEO of Energy Inspectors Corporation and Ei Companies.

WaterSense 2.0 allows whole-house performance-based water efficiency rating programs to be used in achieving the EPA WaterSense label for homes. Under the pilot program, homes need to meet a few straightforward requirements and achieve a HERSH2O score of 70 or less to obtain the WaterSense label.

“KB Home is honored to be the first homebuilder to implement this new water efficiency rating system, and our Inspirada community is the perfect location to pilot this program,” said Brian Kunec, President and Regional General Manager of KB Home's Las Vegas and Seattle divisions. “We understand that water conservation is critical to our sustainability efforts as it helps preserve a precious natural resource and reduce our homeowners' utility costs.”

In conducting the HERSH2O rating on the home, operational regional managers at Energy Inspectors reviewed the home's plumbing specifications and conducted a flow rate test of the home's irrigation system. To verify compliance with the WaterSense checklist items and ensure a high level of performance, a pressure loss test was conducted to check for leaks in the plumbing system, and the home's toilets, bathroom faucets and showerheads were all verified to be WaterSense labeled fixtures.

All the home's details and test results were entered into the HERSH2O calculator to obtain its index score. On the HERSH2O Index scale, the lower the number, the less water the home is expected to use. This home scored a 57, meaning it is roughly 43% more water efficient than a similar home built in 2006. This exceeds the WaterSense labeled homes requirement of being 30% more efficient. With the new home receiving RESNET's HERSH2O certification and earning the WaterSense label, new homebuyers are receiving a home that performs well and saves water.

"EPA is pleased to work with long-time certification partner, RESNET, and not one but two WaterSense Partner of the Year award recipients in KB Home and Energy Inspectors," said Jonah Schein, the National Program Manager for WaterSense labeled homes. "The Version 2.0 pilot is an important opportunity for WaterSense to gain feedback on how to best support the building industry as well as ensure that the needs of homebuyers are being met."

For more information on the RESNET HERSH2O program, visit :<https://www.resnet.us/about/hersh2o/>

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